

Service Date: April 14, 1995

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER Of The PSC's Investigation)	UTILITY DIVISION
of the Regulatory Status of Other Common)	DOCKET NO. 94.2.8
Carriers and Contemplated Rulemaking.)	ORDER NO. 5778f

ORDER NUNC PRO TUNC ON PHASE II ISSUES

INTRODUCTION

1. Order No. 5778d, the Final Order on Phase II issues of the Other Common Carrier (OCC) Docket No. 94.02.08, contained numerous decisions affecting the level of regulation applicable to AT&T and the OCCs. Order No. 5778d permitted all regulated interexchange carriers (IXCs) providing interLATA toll services in Montana to operate with relaxed regulation for the period January 1, 1995, through December 31, 1997.

2. Specifically, Order No. 5778d, & 37, states that "price lists will be effective upon seven days notice, unless challenged." Paragraph 43 notes that price decreases are as important as price increases and states that "price list changes should be effective automatically upon seven days notice, unless challenged." Order No. 5778d does not specifically address new service filings.

BACKGROUND

1. Policies allowing price changes to become effective seven days after filing price lists predate Docket No. 94.02.08. In Docket No. 88.11.49, Order No. 5548a, Order Paragraph 6B, the Montana Public Service Commission (Commission) applied this price flexibility to all IXCs, requiring OCCs to file price changes for the first time.

2. On April 3, 1995 AT&T filed to introduce a new service pursuant to Commission Order No. 5778d, assuming that the seven day period applied to new service filings as well as to

changes in current prices. Prior to April 3, 1995, AT&T made several other filings introducing new services for the Montana intrastate interLATA market.

3. In response to a query from the Commission, AT&T replied that the testimony in Docket 94.2.8 supported a finding that the seven day time period should be available to institute new service introductions as well as for price list changes. A short notice period would enhance the benefit of competition to consumers. See letter dated April 6, 1995 from Cathy Brightwell to Mike Lee.

4. Because the regulatory treatment of new service filings was not included in Order No. 5778d, AT&T requested clarification of Commission intent regarding those filings. The Commission held a work session on April 10, 1995 to address whether the seven day notice period applies to both price list changes and new service offerings.

CONCLUSIONS OF LAW

1. The provision of two-way switched voice-grade telecommunications originating and terminating in Montana constitutes "regulated telecommunications services" subject to the regulatory jurisdiction of the Commission. Sections 69-3-101 and -803, MCA. The Commission properly exercises jurisdiction over the provision of "regulated telecommunications services" pursuant to Title 69, Chapter 3, MCA.

2. The Commission has authority to supervise, regulate and control public utilities. Section 69, Chapter 3, MCA. In Order No. 5778e, Docket No. 94.2.8, the Commission determined which interexchange carriers were "public utilities" subject to the jurisdiction of the Commission. Pursuant to Order No. 5778e, the following entities are "public utilities" subject to the Commission's jurisdiction and are affected by this Order: AT&T, MCI, U.S. Sprint, MCI, TRI Touch America, American Sharecom, Econo Call, LDDS Communications, Inc. (aka Dial-Net), Cable & Wireless, Inc., One-2-One Communications, ITC Tele Services, Inc., Wiltel, Inc. and West Coast Telecommunications. The Commission properly exercises jurisdiction over the Montana operations of the above-listed companies pursuant to Title 69, Chapter 3, MCA.

ORDER

THEREFORE, THE MONTANA PUBLIC SERVICE COMMISSION ORDERS THAT:

1. The introduction of new services by any of the entities listed above is to be handled the same as price increases and decreases set forth in Order No. 5778d; that is, all filings for price changes and new service introductions become effective seven days after filing, unless challenged.

2. In addition to the filing of price lists with the Commission, AT&T and the OCCs listed above shall concurrently provide notice to all other IXC's set forth above.

3. This order modifies Order No. 5778d dated December 21, 1994, *nunc pro tunc*. Notice of price changes and new service introductions after December 21, 1994, which have not been provided by any IXC to all others listed in this order shall be given within ten days.

DONE AND DATED this 10th day of April, 1995 by a vote of 4-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

NANCY MCCAFFREE, Chair

DAVE FISHER, Vice Chair

BOB ANDERSON, Commissioner

DANNY OBERG, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.